THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.2516 of 2007

Date: 27.07.2007

Between:

V.Naga Rao

....Petitioner

and

The Government of A.P. and others.

....Respondents

O R D E R:

The petitioner was elected as the President of Water Users Association, Bhagirath Tank of Lokeshwaram Village and Mandal, Adilabad District. Through his orders, dated 01.02.2007, the Superintending Engineer, Irrigation Circle, the fourth respondent herein, removed the petitioner from the said office. The petitioner challenges the same on several grounds, such as, non-issuance of notice as contemplated under Section 41-A of the A.P. Farmers' Management of Irrigation Systems Act, 1992 (for short 'the Act'), surrender of discretion by the fourth respondent, etc.

Heard the learned counsel for the petitioner, the learned Government Pleader for Irrigation and the learned counsel for the impleaded respondent.

A bare perusal of the impugned order discloses that the fourth respondent passed it on a request made by the Commissioner, Command Area Development Authority, the second respondent herein. In his letter, dated 19.10.2006, the second respondent is said to have directed the fourth respondent not only to remove the petitioner, but also to file criminal case on the allegation that he committed fraud in execution of the works

related to the removal of silt. Before the second respondent recorded the finding, he did not issue notice to the petitioner.

It is not in dispute that whenever the competent authority intends to remove the President of the Water Users Association, it must issue a show cause notice to the affected party under Section 41-A of the Act. Admittedly, such a notice was not issued in the instant case. There was a clear violation of the principles of natural justice by the second respondent before he arrived at the conclusion that the petitioner committed fraud in execution of the works; and by the fourth respondent when he removed the petitioner from the office of the President of Association.

Therefore, the writ petition is allowed and the impugned order is set aside. It is, however, left open to the respondents to take necessary steps in accordance with law, if they are so advised. There shall be no order as to costs.

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27.07.2007

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